IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15575 of 2004

Between:

Shaik Ahmed, S/o Late Shaik Babu,
R/o Chandole Village, Pittlavanipalem Mandal,
Guntur District

..... PETITIONER

AND

Chandole Gram Panchayat, rep.by its Panchayat Secretary,
Chandole, Pittalavanipalem Mandal, Guntur District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in issuing the notice dated 10-08-2004 to the petitioner for vacating the House No.6/90, Rasoolpet, Chandole Village, Pittalavanipalem Mandal, Guntur District, as illegal, arbitrary opposed to principle of natural justice and consequently to set aside the same.

Counsel for the Petitioner: MR.B.PARAMESEWARA RAO

Counsel for the Respondent: MR.DANTU.SRINIVAS

The Court at the stage of admission made the following ORDER:

By the impugned notice the petitioner was called upon by the respondent-Gram Panchayat to vacate the land in question stating that the same belongs to the Gram Panchayat and is required for construction of a public latrine and that if the petitioner fails to vacate the said land, necessary procedure will be followed under the provisions of Panchayat Raj Act for due eviction.

Learned counsel for the petitioner submits that the petitioner's father was in possession of the land in question for the last thirty years and after his death, the petitioner is continuous possession of the same. All of a sudden, the petitioner cannot be dispossessed and the respondent-Gram Panchayat issued the impugned notice without giving any opportunity of submitting explanation by the petitioner.

Heard both the learned counsel and perused the material available on record.

Having regard to the facts and circumstances of the case and since the impugned notice is only an intimation that the petitioner has to vacate the land in question, failing which, necessary procedure will be followed, the grievance of the petitioner that no opportunity was given to him cannot be accepted. It is always open for him to submit his explanation to the notice issued specifying that he is in possession for the last thirty years. Upon such explanation made by the petitioner, respondent shall consider the same and if the eviction of the petitioner is imminent for the proposed public purpose, sufficient time should be given to him to move to some other place.

The writ petition is accordingly disposed of with the above observations. No costs.

_____

A.Gopal Reddy, J

Date: 01.09.2004

va/ghn

To

1. The Panchayat Secretary, Chandole Gram Panchayat,
   Chandole, Pittalavanipalem Mandal, Guntur District

2. Two CD Copies